

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1151 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL  
and  
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT VET PHARMA PRODUCTS LTD

Versus

STATE OF GUJARAT, THROUGH SECRETARY  
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Appearance:

DR SONIA HURRA for Petitioner  
M/S PATEL ADVOCATES for Respondents No. 1 & 4  
Mr. H.J.Trivedi for Respondent No.2  
MR MB GANDHI for Respondents No. 3 & 5.

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CORAM : MR.JUSTICE J.M.PANCHAL  
and  
MR.JUSTICE A.M.KAPADIA

Date of decision: 27/03/2000

ORAL JUDGEMENT

(Per : Panchal, J.)

Rule. Mr. H.C.Patel, learned Government Solicitor waives service of notice of rule on behalf of respondents no.1 & 4. Mr. H.J.Trivedi, learned Counsel waives service of notice of rule on behalf of respondent no.2, Mr. M.B.Gandhi, learned Counsel waives service of notice of rule on behalf of respondents no.3 & 5. Having regard to the facts of the case and in view of the joint request made by the learned Counsel for the parties, the petition is taken-up for final hearing today.

2. By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ or order directing the respondent no.2 to issue no objection certificate for manufacture of D.V.Acid Chloride, Ethofumesate (H.B.F.), Cypermethrin 1,2,4 Triazole, Ortho Chioro Benzaidehyde. The petitioner has further prayed to direct the respondent no.2 to check parameters for discharge of effluents and grant permission for trial production to the petitioner-Company.

3. What is averred in the petition is that the petitioner is a new Unit as contemplated by Environment Protection Act, 1986 as well as Rules framed thereunder and, therefore, the respondent no.2 is not justified in not issuing no objection certificate to the petitioner on the basis that the petitioner is a new Unit. The petitioner has, therefore, filed present petition and claimed reliefs to which reference is made earlier.

4. Though the respondents are duly served, no reply is filed by any of the respondents controverting the averments made in the petition.

5. We may mention that Amar Pigments through its partner Ajay Desai had filed Special Civil Application No. 81/2000 against Gujarat Pollution Control Board claiming similar reliefs. Therein the Division Bench comprising M.S.Shah & R.R.Tripathi, JJ., had issued rule by an order dated February 8, 2000. The Division Bench while issuing rule had directed Gujarat Pollution Control Board to consider the application of Amar Pigments for no objection certificate in accordance with law and in light of the observations made in the order and to consider grant of no objection certificate for trial production on such terms and conditions on which Gujarat Pollution Control Board normally grants no objection certificate in similar cases. The Bench had also directed that the

matter should be considered by the Gujarat Pollution Control Board within two weeks from the date of the order.

6. Dr. Sonia Hurra, learned Counsel for the petitioner states at the Bar that pursuant to interim order dated February 8, 2000, which was passed in Special Civil Application No. 81/2000, case of Amar Pigments was considered by the Gujarat Pollution Control Board and no objection certificate was granted to it vide letter dated February 18, 2000. This statement made at the Bar by the learned Counsel for the petitioner is not disputed by the learned Counsel appearing for the respondents. Under the circumstances, we are of the opinion that interest of justice would be served if Gujarat Pollution Control Board is directed to consider the application of the petitioner for no objection certificate in accordance with law as well as in light of the observations made by the High Court in order dated February 8, 2000 which was passed in Special Civil Application No.81/2000 and their own action of granting no objection certificate to Amar Pigments.

For the foregoing reasons, the petition partly succeeds. The Gujarat Pollution Control Board is hereby directed to consider the application of the petitioner for no objection certificate in accordance with law and in light of observations made by the High Court in order dated February 8, 2000 which was passed in Special Civil Application No. 81/2000 as well as their own action of granting no objection certificate to Amar Pigments. This consideration shall be made within three weeks from today. Rule is made absolute to the extent indicated hereinabove, with no order as to cost. Liberty is reserved to the petitioner to move the Court in case of difficulty.

27.3.2000 (J.M.Panchal,J.) (A.M.Kapadia,J.)

(patel)